

What is behind No Child Left Behind?

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As 2006 came to a close, two significant conferences convened in Washington D.C. The mission? To take up the daunting challenge of what to do with the floundering flagship, the No Child Left Behind Act.

Convocations of some of the law's most prominent supporters were convened, respectively, in late November and in middle December 2006 to try to salvage something, anything, from what's increasingly being seen as a failed law.

First it was the American Enterprise Institute (AEI) that hosted "Fixing Failing Schools: Is the NCLB Toolkit Working?"¹ with such names as Diane Ravitch of the Brookings Institution and Chester Finn of Dayton's Thomas B. Fordham Institution November 30 at AEI's Wohlstetter Conference Center in Washington D.C., and second it was the Thomas B. Fordham Institute itself hosting "Moving Beyond the Basics: Why Reading, Math, and Science Are Not Sufficient for a 21st Century Education"² on December 12 at Washington's Hotel Washington, again with Mrs. Ravitch and other ultraconservative notables such as E.D. Hirsch, Jr., author of a well-known book on fundamentals of literacy.

My attendance at the Fordham sponsored conference, accompanied on camera by my partner in the Wisconsin-based company On The Earth Productions, Karen Rybold Chin, was part of what has evolved into a de facto life's project for me as a teacher in a university department of education who has had a second career as an independent videographer recording for television the unraveling of America's system of public schools that has taken place since the latter years of the 20th Century.

Along the way I have strung together a video chronicle that started with the coming of vouchers in my home state of Wisconsin in 1989 and has extended since the early 1990s to Ohio, the state that has been the main battleground for the struggle between public education and its enemies in the movement of radical free market conservatives seeking to have schools taken over by private corporations and turned into businesses that would be run for profit.

¹ See *American Enterprise Institute*. (November 30, 2006) "Fixing Failing Schools: Is the NCLB Toolkit Working?" Washington, D.C. http://www.aei.org/events/eventID.1351/event_detail.asp

² See *Thomas P. Fordham Institute*. (December 12, 2006) "Moving Beyond the Basics: Why Reading, Math, and Science Are Not Sufficient for a 21st Century Education" Washington D.C. <http://www.edexcellence.net/institute/global/page.cfm?id=396>

My motive in recording the Fordham conference was to capture for history the exact words that hitherto triumphalist spokespersons for the pro-privatization movement had to say now that the bloom is off the rose and the law has been drilled with so much criticism that it might well implode over the next year. How exactly would they respond, and what prescriptions for fixing the law would they be trying to launch in an effort to preempt demands for voiding it altogether when it comes up for reauthorization on its fifth anniversary in 2007?

Having already set a goal for next year of video documentation of these proceedings before the House Committee on Education and the Workforce,³ Karen and I traveled to the two December forums in Washington to see where the main original movers of, and leading advocacy voices for, the law stand now that the Republican legislators who enacted it have lost control of Congress.

Beyond all of the rhetoric, what rationalizations would be offered by these No Child Left Behind true believers for the glaring flaws in the law that have come to light since its enactment in 2002, and what would their take be on whether or not, based on measurable results, the law is working?

The verdict that came in was remarkably similar to the one being echoed by the administration of President Bush and Congress on the war in Iraq: no one believes we are winning either in Iraq or in the reform public education. However, regardless of if NCLB is or is not working, we'll fix it . . . and stay the course!

A notable presence at both Washington conferences was Chester (aka "Checkers") Finn, former assistant secretary of education in the Reagan Administration, and president of the Thomas B. Fordham Foundation. Finn wears on his sleeve an ideological devotion to fundamentalist capitalism and accordingly sees the free market as the Invisible Hand that will bestow salvation and academic success upon all students, or more precisely those whose schools, teachers, and parents learn how dexterously to make the right choices in a choice-based educational system. Where, as in business, there is a material (and, yes, financial) incentive to improve, well that will motivate teachers to improve their techniques for raising student achievement, with the result that thanks to teachers reaching for financial incentives their students will theoretically improve as well. Mr. Finn is the walking epitome of the idea, inherent in the No Child Left Behind Act, that schools can be forced to improve by instilling fear in teachers that failure to raise student performance levels to 100 per cent passing levels in three years' time will result in schools being cold-bloodedly shut down and/or taken over by private companies.

Instead of arriving victoriously at these conventions astride a winged horse of success at the end of No Child Left Behind's first five years, however, Mr. Finn was discovered by our camera with all the prideful demeanor of a man whose toupee had blown off in a wind.

³ See *Committee on Education and the Workforce. U.S. House of Representatives, 109th Congress* <http://edworkforce.house.gov/>

Yielding a body blow to the Panglossian belief that forcing teachers to teach better by scaring them with the prospect that their schools could be shut down will lead to a universal climbing by students of the ladder of success, test scores reveal students who are massively losing ground and teaching and subject matter that are becoming narrower, with resulting outrage, malaise, and out flight among teachers and with parents suffering clinical stress along with their children over NCLB's requirement of an explosion in make-or-break testing as the law proceeds. That this dose of reality has been a traumatic letdown to the free-marketeting think tankers who have been the faithful constituency for No Child Left Behind was obvious on the faces of the two conference panels' participants.

Chester Finn, following in the footsteps of Melville's Ahab on his sinking ship, railed at the gloomy response of the panelists at AEI, who one by one, begrudgingly bemoaned the failures of the law, even going so far as to suggest that the panelists might need to take drugs for depression!

At the next conference, sponsored by Fordham, Finn again strove to reignite an upbeat attitude. We interviewed him on camera at that second conference and he answered my questions about the law as follows:

Price: What are the main curriculum issues or concerns at Fordham or that some of the participants here have . . . what are the concerns about curriculum and No Child Left behind?

Finn: Well today is indisputably focused on what we call the liberal arts in K-12 education and whether they are being squeezed out by the emphases on reading skills and math skills . . . and most of the people in the room I would say are worried that literature, history, the arts and other important subjects are in fact being marginalized.

[Mr. Finn argued alternately that the law's fixation on test prep isn't such a great thing because the incentive is to teach-to-the-test, and at the same time, that, yes, the liberal arts are being squeezed out! To restate: Finn and others were concerned that all the drill and kill test preparation in math and reading is pushing out Shakespeare. Here is what he said:]

Price: . . . now there seems to be a return to, well, we need to do liberal arts better or fuller, what's the issue?

Finn: Well this is umm, . . . every good idea gets carried to extremes and then there is a correction of course needed. The basics are absolutely essential, and the kids need to be able to read and do arithmetic in order to get anywhere else in any other subjects. That does not mean, however, that they don't also need history, literature, the arts and a few other things. This is not a conference about home economics, shop and driver's ed, however. This is a conference about whether the classic core content curriculum needs to be taught to all kids or whether as a country going forward we are content with a skill set of reading and math. The sense that kids might learn to read...but never read a book!

[Well, it's reassuring to know that even Finn and his fellow-free market ideologues are finally realizing what 70% of the American public that knows anything about the law is saying: (according to the 38th PDK Gallup Poll)⁴ NCLB is "ineffective and destructive" to the public education system. It's just plainly bad for teaching and learning. So why do these stalwart No Child Left Behind-ites want to stay the course? Worse still, why do Democrats like the incoming chairman of the House Committee on Education and the Workforce and No Child Left Behind Law co-sponsor George Miller want to stay the course? Here is Finn's answer:]

Finn: No Child Left Behind is trying to increase the pressure on all sorts of public schools to make sure that their kids, especially their poor and minority kids, learn reading and math. That is an absolutely laudable objective that I completely share. It's not trying to destroy public education, it's trying to make it more effective. However, it is making it effective across a narrower swath of the curriculum than might be optimal.

[It seemed curious to hear a detractor of public education like Mr. Finn defend so strongly "all sorts of public schools"...and hear him say that NCLB is not intended to destroy public education! I had never suggested as much in my question to him, but here he was trying to defend himself against a charge of public education bashing that he knows has been synonymous with his name. But what did he mean by "all sorts of public schools?" I pushed further for him to clarify:]

Price: . . . what role is there for charters, choice, virtual schools any of these numbers of system, under this tightening the pressure on the public schools to do better?

Finn: Well if we do it right we both tighten pressure for better results and loosen the rules about how those results are achieved. The classic charter school bargain is greater accountability for results in return for greater freedom to operate your school as you see fit, which includes curriculum, textbooks, instruction, and all of those other things. So I think it's the perfect combination.

Price: . . . but those would probably be public charters right?! Not for-profit charters...

Finn: There's no meaningful distinction here. All charter schools by definition are public schools, some of them are operated by for-profit firms...

Price: . . . thank you very much for this interview.

Well, there you have it. Finn wants "all sort of public schools" to include "for-profit firms." Case in point: in a recent Ohio Supreme Court decision on the lawsuit filed in November, 2005,

⁴ See Rose, Lowell C. and Gallup, Alec M. (2006) *The 38th Annual Phi Delta Kappa/Gallup Poll of the Public's Attitudes Toward the Public Schools*. http://www.pdkmembers.org/e-GALLUP/kpoll_pdfs/pdkpoll38_2006.pdf

by the anti-charter school Coalition for Public Education, schools operated by the for-profit company White Hat Management, Inc. can effectively call themselves “public” and be classified as public schools even though no one elected their boards of shareholders, the way voters would normally elect a local school board.⁵

Given the thrashing that public education has taken for almost a quarter of a century since the publication of *The Nation at Risk* in 1983 by National Commission on Excellence In Education under the Reagan Administration, it is ironical in the extreme to hear people like Chester Finn, who have been on a relentless course to replace public with privatized education, pose as advocates of saving the public schools.

And what will be left of the public schools and what will they look like when this privatizing firestorm that goes by the name No Child Left Behind and that firebrands like Chester Finn have helped spread through the classrooms and hallways of America’s schools has run its course?

For an answer to this question, the place to start is Ohio.

For the past three years in my career as an educational researcher I had more than a passing interest in the law. I had received funding from my institutional home, National-Louis University to work with an Ohio-based co-producer Geoff Berne on an educational documentary entitled “*Public Education In The Crosshairs*” and shed light on the implementation of the law. I did so starting not in Chicago, where I currently reside and teach, but in the city of Hamilton, Ohio, Ohio’s eighth largest city, where the No Child Left Behind law was signed by a Republican, President George W. Bush, on January 23, 2002.

Ohio is rightly the birthplace of public education. Something that we don’t hear nearly enough about in school, the Northwest Ordinance of 1787, made it so. From the pioneers navigating the rivers and backways through the new frontier, so emerged the northwestern territories of Ohio, of Illinois and Wisconsin and with them a shared ethic of the state having a role in educating its citizenry. The language of the Ordinance providing for a “thorough and efficient” system of state-supported public schools led to an ethic of education for the masses, a system that has endured, up until 2006.

Yes, 2006.

In Ohio, the term “public” in “public school” has actually been stretched to the breaking point of meaninglessness in a 2006 Ohio Supreme Court decision *State of Ohio EX REL. Ohio Congress of Parents and Teachers Et al v. State of Ohio Board of Education Et al. and White Hat Management LLC Et al.*⁶ As a result of this ruling, which echoes the creed of Chester Finn that

⁵ See *State ex rel. Ohio Congress of Parents & Teachers v. State Bd. of Edn.*, 111 Ohio St.3d 568, 2006-Ohio-5512. *Schools—Community-school legislation constitutional—R.C. Chapter 3314.* (No. 2004-1668 – Submitted November 29, 2005 – Decided October 25, 2006.) APPEAL and CROSS-APPEAL from the Court of Appeals for Franklin County, No. 03AP-508, 2004-Ohio-4421.

⁶ *Ibid.*

charter schools are really “public” schools, Ohio corporations can now be called “public” schools too. Without a shred of evidence that the educational establishment, the media, local government, and the people are aware of this ruling or the full impact it will have, Ohio public education is now definitively lost at sea.

A particularly staunch fighter for public schools until his recent demise, Ohio Federation of Teachers president (and a vice president of national A.F.T.) Tom Mooney led the Coalition for Public Education that filed the suit challenging Ohio’s establishment of two systems: one of the traditional public schools and the other a charter school system which would operate out of the boundaries of the public school’s checks and balances while still using public taxpayer funds. Mooney died an untimely death at age 52 in December, 2006 but leaves behind a public school constituency that seems determined to restore the integrity of a unitary rather than bipolar public school system. With public funds in the amount of over a half billion dollars being spent on charter rather than traditional public schools, and 275 charter schools now in operation across the state, Ohio is far and away the number one state in the country in its support of private schools and privatization of public education.

And yet the results of the “choice” experiment in Ohio have been notoriously dismal.

In 2004, more than 70 percent of Ohio’s charter schools were ranked deficient and placed under academic emergency or watch [contrasted with 14 percent of traditional public schools]

About 50 percent of Ohio charter school teachers quit each year, compared with 10 percent in the public schools. Charter schools have 30 students per teacher compared to 19 in public schools. 78 percent of charter school teachers have less than five years experience compared to 27 percent in public schools.

Meanwhile as far as investing in schools in impoverished communities where students are lagging in achievement, the magazine *Education Week* gave Ohio a D minus grade in equity of school funding.⁷

That there are under the No Child Left Behind law mechanisms in place to punish rather than repair schools with failing student populations by shutting them down and either giving students a “choice” of transferring to alternate schools or handing the schools themselves over to for-profit management companies means that Ohio public education has been put on death row and is awaiting the hangman’s noose.

How disturbing is it, therefore, to see not only the typical American ultraconservative leadership and think tankers but the Democratic leadership under supposedly progressive-liberal Congressman George Miller, Chairman of the House Committee on Education and the Workforce, commit doggedly to the preservation and reauthorization of No Child Left Behind

⁷ See Education Week. <http://www.edweek.org/ew/index.html>

with its sure consequence of the eventual total privatization of education in states ripe for it like Ohio. Miller seems intent on saving this ship and navigating it to Secretary Margaret Spellings' favorite place for sinking schools, what she calls "Safe Harbor." Safe Harbor works like this: a school or school district that is failing is "rescued" from being closed. The only catch is you might have to open your school administration to a private body, get rid of all your staff and reopen as . . . viola! . . . a charter!

Why are Democrats who have been public education's traditional defenders fighting to keep this law afloat?

Why save a law that is at its heart meant to punish schools, especially, it seems, those schools with the least resources in spite of having the greatest need for improvement?

Why force students to take inane fill-in-the-bubble tests, year after year, when testing companies like Harcourt Assessment Inc, can't even keep up with the increased demand, fail to provide the instructional materials to teachers, screw up students' test scores, denying them the information needed to make a decision on which college to attend?⁸

Why?

Why waste all the Title 1 money, sending millions of dollars to Sylvan Educational Solutions and other so-called Supplemental Educational Service providers — like the President's brother, Ned Bush, and his company Ignite Inc.⁹ — when only 11.9% of the students who truly need the services get them?¹⁰

Why indeed?

Perhaps the Democrats think that now that they have control over Congress they can use their newfound leverage to free up money to pay for the law?

Perhaps they are worried that the Fortune 500 companies and leading man, former Secretary of Education Rod Paige, are going to utterly privatize the public school system if NCLB fails?¹¹

Or perhaps they are just plain afraid of being seen as leaving children behind if they oppose the law?

⁸ Arenson, Karen W. (March 18, 2006) Testing Errors Prompt Calls for Oversight. *New York Times*.

⁹ See Roche, Walter F. Jr., (October 22, 2006) Bush's family profits from 'No Child' act. *Los Angeles Times*.

¹⁰ See Robertson, Joseph. (March 7, 2006) Thousands not getting free tutoring program. *Kansas City Star*

¹¹ See *The New Commission on Skills on the Skills of the American Workforce* which basically says, full steam ahead. <http://www.skillscommission.org/>

I recently delivered a radio interview on Kenosha's public radio WGTD¹² to answer this and several questions: how did the law come together and why is it bipartisan? You would think that anyone associated with it would by this time be looking to jump ship!

No. The Democrats want to save it. None of the reasons for getting rid of the law seem to measure up to the one overarching reason for saving it, for reauthorization of No Child Left Behind 2007. You can hear it time and time again, whenever a question comes up, about the purposes, aims, means and goals and ends of education. Otherwise why would we keep a law that is failing, and in so doing making the schools, teachers, students, principals and parents miserable? Why, in so doing, would we eliminate recess, shorten school lunch, and as even the pro-privatization Fordham Foundation panelists in Washington admit that even they fear is happening, discard the knowledge of the ages to make room for test prep? Why would we turn over the 200 years of the liberal democratic education tradition of free and appropriate education, the American public school system, to a consortium of transnational corporations in the form of charters . . . and call the new system "public?"

Why indeed?

It's simple. As both Republicans and Democrats might admit if being brutally honest: "When push comes to shove, what's more important than preserving our sacred American institution of Competition?"

To which could be added:

"What is it that could possibly unite small government Republicans behind a law that federalizes education in all 50 states and big government Democrats behind a law that imposes free market economics on a government-run school system? The answer: fealty of both parties, even if it means surrendering our children to the care of businesses to be processed and manufactured as 'products,' to the divine American god PROFIT."

¹² See Olsen, Dwayne. Education Matters. (December 23rd, 2006) *WGTD 91.1 FM* Kenosha, Wisconsin. <http://www.wgtd.org/education.asp>

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